

AMENDED IN SENATE APRIL 20, 2005

SENATE BILL

No. 555

Introduced by Senator Machado

February 18, 2005

~~An act to amend Sections 69, 69.3, 170, 172, 172.1, and 194 of the~~
An act to amend Sections 75.12, 469, 534, 3693.1, 3706.1, 18633.5,
and 20583 of, to add Sections 75.23 and 1641.5 to, and to repeal
Section 24348.5 of, the Revenue and Taxation Code, relating to
taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, as amended, Machado. ~~Property tax relief: state~~
~~emergencies~~ *Taxation.*

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. For purposes of these provisions, existing property tax law presumes that new construction is completed on the date of completion, unless the owner does not intend to occupy or use the property, in which case the owner is required to notify the county assessor within 30 days of commencing the construction, as specified. Existing property tax law requires a supplemental assessment to be made when property undergoes a change in ownership or has had new construction completed after the period in which the property was assessed in an assessment year.

This bill would exclude from this notice requirement, and presume that a supplemental assessment is not required for, certain property

that the owner does not intend to occupy or use property upon the completion of the new construction.

Existing law exempts from property taxation specified types of property or property owned by specified taxpayers. Existing law specifies that a property tax exemption applies to a supplemental assessment if the person claiming the exemption meets the qualifications for the exemption no later than 90 days after the date the new construction or change in ownership occurred.

This bill would instead provide that, in the case of a supplemental assessment on property that has undergone a change in ownership, an exemption that was granted to that property does not apply as of the date of the change in ownership if the transferee does not otherwise qualify for that exemption on the date of the change in ownership, as specified. This bill would exclude from these provisions property that qualifies for the homeowners' exemption, as provided.

By changing the manner in which supplemental assessments are administered by county assessors, this bill would impose a state-mandated local program.

Existing property tax law requires the county assessor to audit the books and records of a profession, trade, or business at least once every 4 years in the case of a taxpayer engaged in a profession, trade, or business, that owns, claims, possesses, or controls locally assessable trade fixtures and business tangible property with a full value of at least \$400,000. The California Constitution and existing law exempt from property taxation specified property and property owned by specified entities.

This bill would instead require the assessor to perform these audits only with respect to taxpayers that are not fully exempt from property taxation, as specified.

Existing property tax law provides that a notice of supplemental and escape assessments be made to an assessee on a form approved by the State Board of Equalization.

This bill would provide that, for specified counties, receipt by the assessee of the tax bill based on the assessment shall suffice as notice if the tax bill advises the assessee of the right to appeal the assessment.

Existing property tax law authorizes a county to appoint an assessment hearing officer to conduct hearings on specified taxpayer assessment protest applications and to make recommendations on

these applications to the county board of equalization or county assessment appeals board.

This bill would authorize a county board of supervisors to adopt a resolution providing that the assessment hearing officer's decision constitutes the final administrative action by the county board of equalization or county assessment appeals board.

Existing law authorizes a county tax collector to sell tax-defaulted property in a cash or a credit transaction. Existing law authorizes a county tax collector to postpone a public auction sale of tax-defaulted property if certain conditions regarding notice of that postponement are met.

This bill would instead specify that a county tax collector may sell tax-defaulted property in a cash or a deferred-payment transaction. This bill would also authorize a county tax collector to postpone a tax sale that is conducted in the form of a sealed-bid sale. This bill would also make technical, nonsubstantive changes to the provisions relating to tax sale postponements.

The Senior Citizens Property Tax Postponement Law provides that certain individuals who have an ownership interest, as defined, in a residential dwelling may request postponement of property taxes.

This bill would delete obsolete language and provide that houseboats and floating homes on which the property taxes are delinquent at the time for application for postponement are not eligible for postponement.

The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to require any person to withhold from items of income the tax due under those laws from the recipient of that income, as specified.

This bill would clarify that a limited liability company's tax payments under those laws are reduced by the amounts previously withheld and paid by that company.

This bill would also repeal an obsolete statute pertaining to deductions under the Corporation Tax Law for a state or federal savings and loan association.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law authorizes the Governor to proclaim a state of emergency in specified circumstances. The California Constitution and existing law authorize various forms of relief regarding the payment of property taxes, or taxes that are imposed in lieu of property taxes, on property that is damaged in a disaster, as declared by the Governor. Under existing law, these forms of relief include authorizing a taxpayer to defer the payment of property taxes on this property and authorizing a taxpayer to transfer the base year value, as defined, of this property to a replacement property.~~

~~This bill would recast these disaster-relief provisions by clarifying that a Governor-declared disaster means a state of emergency proclaimed by the Governor.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 75.12 of the Revenue and Taxation Code*
2 *is amended to read:*

3 75.12. (a) For the purposes of this chapter, new construction
4 shall be deemed completed on the earliest of the following dates:

5 (1) (A) The date upon which the new construction is available
6 for use by the owner, unless the owner does not intend to occupy
7 or use the property. The owner shall notify the assessor prior to,
8 or within 30 days of, the date of commencement of construction
9 that he or she does not intend to occupy or use the property. If the
10 owner does not notify the assessor as provided in this
11 subdivision, the date shall be conclusively presumed to be the
12 date of completion.

13 (B) *Notwithstanding subparagraph (A), an owner is not*
14 *required to provide the notice described in subparagraph (A) and*
15 *it is rebuttably presumed that a supplemental assessment is not*
16 *required on property described in clauses (i) to (iii), inclusive, if*
17 *the owner's property meets all of the following conditions:*

18 (i) *The property is subdivided into five or more parcels in*
19 *accordance with the Subdivision Map Act (Division 2*
20 *(commencing with Section 66410) of Title 7 of the Government*
21 *Code), or any successor to that law.*

1 (ii) *A map describing the parcels has been recorded.*

2 (iii) *Zoning regulations that are applicable to the parcels or*
3 *building permits for the parcels require that, except for parcels*
4 *dedicated for public use, single-family residences will be*
5 *constructed on the parcels.*

6 (2) If the owner does not intend to occupy or use the property,
7 the date the property is occupied or used with the owner's
8 consent.

9 (3) If the property cannot be functionally used or occupied on
10 the date it is available for use considering the type of property
11 and any special facts and circumstances affecting use or
12 occupancy, the date the property can be functionally used or
13 occupied.

14 (b) For the purposes of this section:

15 (1) "Occupy or use" means the occupancy or use by the
16 owner, including the rental or lease of the property, except as
17 provided in paragraph (2).

18 (2) Property shall not be considered occupied or used by the
19 owner or with the owner's consent if the occupancy or use is
20 incidental to an offer for a change of ownership, including, but
21 not limited to, use of the property as a model home.

22 (c) The board, after consultation with the California Assessors
23 Association, shall adopt rules and regulations defining the date of
24 completion of new construction in accordance with this section.
25 The rules and regulations shall not define the date of completion
26 in a manner that the date of completion of all new construction is
27 postponed until the following lien date.

28 (d) Nothing in this section shall preclude the reassessment of
29 that property on the assessment roll for January 1 following the
30 date of completion.

31 (e) The owner of any property who notifies the assessor
32 pursuant to subdivision (a) that he or she does not intend to
33 occupy or use the property shall notify the assessor within 45
34 days of the earliest date that any of the following occur:

35 (1) The property changes ownership pursuant to an unrecorded
36 contract of sale.

37 (2) The property is leased or rented.

38 (3) The property is occupied or used by the owner for any
39 purpose other than provided in subdivision (b).

(4) The property is occupied or used with the owner's consent for any purpose other than provided in subdivision (b).

(f) The failure to provide the assessor the notice required by subdivision (e), whether requested or not, shall result in a penalty in the amount specified in Section 482.

SEC. 2. *Section 75.23 is added to the Revenue and Taxation Code, to read:*

75.23. (a) *Notwithstanding any other provision of law, in the case of a supplemental assessment on property that has undergone a change in ownership, an exemption that was granted to that property on the current roll or the roll being prepared shall not apply to that property as of the date of the change in ownership if the transferee did not otherwise qualify for that exemption on the date of the change in ownership. This subdivision shall not be construed to preclude a transferee from qualifying, on and after the date of a change in ownership, for an exemption for that property that is otherwise provided by law.*

(b) *Subdivision (a) does not apply to property that was granted the homeowners' exemption on the current roll or the roll being prepared.*

SEC. 3. *Section 469 of the Revenue and Taxation Code is amended to read:*

469. (a) In any case in which locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer *that is not fully exempt from property taxation under other provisions of law and that is* engaged in a profession, trade, or business has a full value of four hundred thousand dollars (\$400,000) or more, the assessor shall audit the books and records of that profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Section 15640 of the Government Code, that determination may be deemed an audit by the assessor for purposes of this section.

(b) With respect to any audit of the books of a profession, trade, or business, regardless of the full value of the trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by the taxpayer, the following shall apply:

(1) Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in

1 writing with respect to data that would alter any previously
2 enrolled assessment.

3 (2) Equalization of the property by a county board of
4 equalization or assessment appeals board pursuant to Chapter 1
5 (commencing with Section 1601) of Part 3 of this division shall
6 not preclude a subsequent audit and shall not preclude the
7 assessor from levying an escape assessment in appropriate
8 instances, but shall preclude an escape assessment being levied
9 on that portion of the assessment that was the subject of the
10 equalization hearing.

11 (3) If the result of an audit for any year discloses property
12 subject to an escape assessment, then the original assessment of
13 all property of the assessee at the location of the profession,
14 trade, or business for that year shall be subject to review,
15 equalization and adjustment by the county board of equalization
16 or assessment appeals board pursuant to Chapter 1 (commencing
17 with Section 1601) of Part 3 of this division, except in those
18 instances when the property had previously been equalized for
19 the year in question.

20 (4) If the audit for any particular tax year discloses that the
21 property of the taxpayer was incorrectly valued or misclassified
22 for any cause, to the extent that this error caused the property to
23 be assessed at a higher value than the assessor would have
24 entered on the roll had the incorrect valuation or misclassification
25 not occurred, then the assessor shall notify the taxpayer of the
26 amount of the excess valuation or misclassification, and the fact
27 that a claim for cancellation or refund may be filed with the
28 county as provided by Sections 4986 and 5096.

29 *SEC. 4. Section 534 of the Revenue and Taxation Code is*
30 *amended to read:*

31 534. (a) Assessments made pursuant to Article 3
32 (commencing with Section 501) or this article shall be treated
33 like, and taxed at the same rate applicable to, property regularly
34 assessed on the roll on which it is entered, unless the assessment
35 relates to a prior year and then the tax rate of the prior year shall
36 be applied, except that the tax rate for years prior to the 1981–82
37 fiscal year shall be divided by four.

38 (b) No assessment described in subdivision (a) shall be
39 effective for any purpose, including its review, equalization and
40 adjustment by the Board of Equalization, until the assessee has

1 been notified thereof personally or by United States mail at his or
2 her address as contained in the official records of the county
3 assessor. For purposes of Section 532, the assessment shall be
4 deemed made on the date on which it is entered on the roll
5 pursuant to Section 533, if the assessee is notified of the
6 assessment within 60 days after the statute of limitations or the
7 placing of the escape assessment on the assessment roll.
8 Otherwise the assessment shall be deemed made only on the date
9 the assessee is so notified.

10 (c) The notice given by the assessor pursuant to this section
11 shall include all of the following:

12 (1) The date the notice was mailed.

13 (2) Information regarding the assessee's right to an informal
14 review and the right to appeal the assessment, and except in a
15 case in which paragraph (3) applies, that the appeal shall be filed
16 within 60 days of the date of mailing printed on the notice or the
17 postmarked date therefor, whichever is later. For the purposes of
18 equalization proceedings, the assessment shall be considered an
19 assessment made outside of the regular assessment period as
20 provided in Section 1605.

21 (3) For counties in which the board of supervisors has adopted
22 a resolution in accordance with subdivision (c) of Section 1605,
23 and the County of Los Angeles, ~~the notice shall advise the~~
24 ~~assessee of the right to appeal the assessment~~ *receipt by the*
25 *assessee of a tax bill based on that assessment shall suffice as*
26 *notice under this section if the tax bill advises the assessee of the*
27 *right to appeal the assessment*, and that the appeal shall be filed
28 within 60 days of the date of mailing printed on the tax bill or the
29 postmark therefor, whichever is later. For the purposes of
30 equalization proceedings, the assessment shall be considered an
31 assessment made outside of the regular assessment period as
32 provided in Section 1605.

33 (4) A description of the requirements, procedures, and
34 deadlines with respect to an application for the reduction of an
35 assessment pursuant to Section 1605.

36 (d) (1) The notice given by the assessor under this section
37 shall be on a form approved by the board.

38 (2) Giving of the notice required by Section 531.8 shall not
39 satisfy the requirements of this section.

1 *SEC. 5. Section 1641.5 is added to the Revenue and Taxation*
2 *Code, to read:*

3 1641.5. (a) *Notwithstanding any other provision of law, the*
4 *board of supervisors of a county in which a hearing officer*
5 *exercises jurisdiction pursuant to subdivision (a) of Section 1637*
6 *may, by a resolution enacted by a majority of the entire*
7 *membership of that board, provide that the decision of a hearing*
8 *officer on an assessment appeal application constitutes the final*
9 *administrative decision of the county board of equalization or*
10 *county assessment appeals board on that application without any*
11 *further action by the county board of equalization or county*
12 *assessment appeals board.*

13 (b) *In a county that adopts the resolution described in*
14 *subdivision (a), that resolution supersedes Sections 1640 and*
15 *1641.*

16 *SEC. 6. Section 3693.1 of the Revenue and Taxation Code is*
17 *amended to read:*

18 3693.1. *Notwithstanding Section 3693, the tax collector may*
19 *make the sale of any property sold under this chapter a cash or*
20 ~~credit~~ *deferred-payment transaction. If the tax collector approves*
21 *the sale as a*~~credit~~ *deferred-payment transaction, the tax collector*
22 *may require a deposit in the amount of five thousand dollars*
23 *(\$5,000) or 10 percent of the minimum bid price, whichever is*
24 *greater. The balance of the purchase price shall be paid by any*
25 *method of payment authorized by Section 2502, 2503.2, or 2504,*
26 *as specified by the tax collector and within a period specified by*
27 *the tax collector not to exceed 90 days from the date of the close*
28 *of auction as a condition precedent to the transfer of title to the*
29 *purchaser. If the purchaser was required to pay a deposit prior to*
30 *the date of the sale, the deposit shall be applied toward the*
31 *purchase price of the property. Failure on the part of the*
32 *successful bidder to consummate the sale within the period*
33 *specified by the tax collector shall result in the forfeiture of the*
34 *deposit and all rights he or she may have with respect to that*
35 *property. Any forfeiture of deposit shall be distributed to the*
36 *county general fund and shall not apply to outstanding delinquent*
37 *taxes. Upon forfeiture the right of redemption shall revive.*

38 *SEC. 7. Section 3706.1 of the Revenue and Taxation Code is*
39 *amended to read:*

1 3706.1. The tax collector ~~shall have authority to~~ *may*
2 postpone the ~~public auction tax~~ sale or any portion thereof under
3 the following conditions:

4 (a) Notice of any postponement of ~~the a public auction tax~~
5 sale shall be made by the tax collector who, by public declaration
6 at the time and place originally fixed for the ~~sale~~ *public auction*,
7 may postpone the sale to a new time, date, and place. No other
8 notice of the postponed ~~sale~~ *public auction* need be given if the
9 date for the new time, date, and place is within seven days of the
10 time originally fixed for the sale.

11 (b) Notice of any postponed *sealed-bid sale or postponed*
12 *public auction* sale that is scheduled to be held not less than eight
13 days nor more than 90 days from the time originally fixed for the
14 sale, shall be made pursuant to the same provisions ~~that were~~
15 followed in providing notice of the original sale to parties of
16 interest, as defined in Section 4675.

17 SEC. 8. *Section 18633.5 of the Revenue and Taxation Code is*
18 *amended to read:*

19 18633.5. (a) Every limited liability company which is
20 classified as a partnership for California tax purposes that is
21 doing business in this state, organized in this state, or registered
22 with the Secretary of State shall file its return on or before the
23 fifteenth day of the fourth month following the close of its
24 taxable year, shall make a return for that taxable year, stating
25 specifically the items of gross income and the deductions allowed
26 by Part 10 (commencing with Section 17001). The return shall
27 include the names, addresses, and taxpayer identification
28 numbers of the persons, whether residents or nonresidents, who
29 would be entitled to share in the net income if distributed and the
30 amount of the distributive share of each person. The return shall
31 contain or be verified by a written declaration that it is made
32 under penalty of perjury, signed by one of the limited liability
33 company members. In the case of a limited liability company not
34 doing business in this state, and subject to the tax imposed by
35 subdivision (b) of Section 17941, the Franchise Tax Board shall,
36 for returns required to be filed on or after January 1, 1998,
37 prescribe the manner and extent to which the information
38 identified in this subdivision shall be included with the return
39 required by this subdivision.

(b) Each limited liability company required to file a return under subdivision (a) for any limited liability company taxable year shall, on or before the day on which the return for that taxable year was required to be filed, furnish to each person who holds an interest in that limited liability company at any time during that taxable year a copy of that information required to be shown on that return as may be required by forms and instructions prescribed by the Franchise Tax Board.

(c) Any person who holds an interest in a limited liability company as a nominee for another person shall do both of the following:

(1) Furnish to the limited liability company, in the manner prescribed by the Franchise Tax Board, the name, address, and taxpayer identification number of that person, and any other information for that taxable year as the Franchise Tax Board may prescribe by forms and instructions.

(2) Furnish to that other person, in the manner prescribed by the Franchise Tax Board, the information provided by that limited liability company under subdivision (b).

(d) The provisions of Section 6031(d) of the Internal Revenue Code, relating to the separate statement of items of unrelated business taxable income, shall apply.

(e) (1) A limited liability company shall file with its return required under subdivision (a), in the form required by the Franchise Tax Board, the agreement of each nonresident member to file a return pursuant to Section 18501, to make timely payment of all taxes imposed on the member by this state with respect to the income of the limited liability company, and to be subject to personal jurisdiction in this state for purposes of the collection of income taxes, together with related interest and penalties, imposed on the member by this state with respect to the income of the limited liability company. If the limited liability company fails to timely file the agreements on behalf of each of its nonresident members, then the limited liability company shall, at the time set forth in subdivision (f), pay to this state on behalf of each nonresident member of whom an agreement has not been timely filed an amount equal to the highest marginal tax rate in effect under Section 17041, in the case of members which are individuals, estates, or trusts, and Section 23151, in the case of members—~~which~~ *that* are

1 corporations, multiplied by the amount of the member's
2 distributive share of the income source to the state reflected on
3 the limited liability company's return for the taxable period,
4 *reduced by the amount of tax previously withheld and paid by the*
5 *limited liability company pursuant to Section 18662 and the*
6 *regulations thereunder with respect to each nonresident member.*
7 A limited liability company shall be entitled to recover the
8 payment made from the member on whose behalf the payment
9 was made.

10 (2) If a limited liability company fails to attach the agreement
11 or to timely pay the payment required by paragraph (1), the
12 payment shall be considered the tax of the limited liability
13 company for purposes of the penalty prescribed by Section 19132
14 and interest prescribed by Section 19101 for failure to timely pay
15 the tax. Payment of the penalty and interest imposed on the
16 limited liability company for failure to timely pay the amount
17 required by this subdivision shall extinguish the liability of a
18 nonresident member for the penalty and interest for failure to
19 make timely payment of all taxes imposed on that member by
20 this state with respect to the income of the limited liability
21 company.

22 (3) No penalty or interest shall be imposed on the limited
23 liability company under paragraph (2) if the nonresident member
24 timely files and pays all taxes imposed on the member by this
25 state with respect to the income of the limited liability company.

26 (f) Any agreement of a nonresident member required to be
27 filed pursuant to subdivision (e) shall be filed at either of the
28 following times:

29 (1) The time the annual return is required to be filed pursuant
30 to this section for the first taxable period for which the limited
31 liability company became subject to tax pursuant to Chapter 10.6
32 (commencing with Section 17941).

33 (2) The time the annual return is required to be filed pursuant
34 to this section for any taxable period in which the limited liability
35 company had a nonresident member on whose behalf an
36 agreement described in subdivision (e) has not been previously
37 filed.

38 (g) Any amount paid by the limited liability company to this
39 state pursuant to paragraph (1) of subdivision (e) shall be
40 considered to be a payment by the member on account of the

income tax imposed by this state on the member for the taxable period.

(h) Every limited liability company that is classified as a corporation for California tax purposes shall be subject to the requirement to file a tax return under the provisions of Part 10.2 (commencing with Section 18401) and the applicable taxes imposed by Part 11 (commencing with Section 23001) ~~including Section 23221 relating to the prepayment of the minimum tax to the Secretary of State.~~

(i) (1) Every limited liability company doing business in this state, organized in this state, or registered with the Secretary of State, that is disregarded pursuant to Section 23038 shall file a return that includes information necessary to verify its liability under Sections 17941 and 17942, provides its sole owner's name and taxpayer identification number, includes the consent of the owner to California tax jurisdiction, and includes other information necessary for the administration of this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001).

(2) If the owner's consent required under paragraph (1) is not included, the limited liability company shall pay on behalf of its owner an amount consistent with, and treated the same as, the amount to be paid under subdivision (e) by a limited liability company on behalf of a nonresident member for whom an agreement required by subdivision (e) is not attached to the return of the limited liability company.

(3) The return required under paragraph (1) shall be filed on or before the fifteenth day of the fourth month after the close of the taxable year of the owner subject to tax under Part 10 (commencing with Section 17001) of Division 2 or on or before the fifteenth day of the third month after the close of the taxable year of the owner subject to tax under Chapter 2 (commencing with Section 23101) of Part 11 of Division 2, whichever is applicable.

(4) For limited liability companies disregarded pursuant to Section 23038, "taxable year of the owner" shall be substituted for "taxable year" in Sections 17941 and 17942.

(j) *The amendments made by the act adding this subdivision apply to taxable years beginning on or after January 1, 2005.*

1 *SEC. 9. Section 20583 of the Revenue and Taxation Code is*
2 *amended to read:*

3 20583. (a) “Residential dwelling” means a dwelling occupied
4 as the principal place of residence of the claimant, and so much
5 of the land surrounding it as is reasonably necessary for use of
6 the dwelling as a home, owned by the claimant, the claimant and
7 spouse, or by the claimant and either another individual eligible
8 for postponement under this chapter or an individual described in
9 subdivision (a), (b) or (c) of Section 20511 and located in this
10 state. It shall include condominiums and mobilehomes that are
11 assessed as realty for local property tax purposes. It also includes
12 part of a multidwelling or multipurpose building and a part of the
13 land upon which it is built. In the case of a mobilehome not
14 assessed as real property that is located on land owned by the
15 claimant, residential “dwelling” includes the land on which the
16 mobilehome is situated and so much of the land surrounding it as
17 reasonably necessary for use of the mobilehome as a home.

18 (b) As used in this chapter in reference to ownership interests
19 in residential dwellings, “owned” includes (1) the interest of a
20 vendee in possession under a land sale contract provided that the
21 contract or memorandum thereof is recorded and only from the
22 date of recordation of the contract or memorandum thereof in the
23 office of the county recorder where the residential dwelling is
24 located, (2) the interest of the holder of a life estate provided that
25 the instrument creating the life estate is recorded and only from
26 the date of recordation of the instrument creating the life estate in
27 the office of the county recorder where the residential dwelling is
28 located, but “owned” does not include the interest of the holder
29 of any remainder interest or the holder of a reversionary interest
30 in the residential dwelling, (3) the interest of a joint tenant or a
31 tenant in common in the residential dwelling or the interest of a
32 tenant where title is held in tenancy by the entirety or a
33 community property interest where title is held as community
34 property, and (4) the interest in the residential dwelling in which
35 the title is held in trust, as described in subdivision (d) of Section
36 62, provided that the Controller determines that the state’s
37 interest is adequately protected.

38 (c) For purposes of this chapter, the registered owner of a
39 mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) “Residential dwelling” does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation or at least 20 percent of the fair market value as determined by the Controller and where the Controller determines that the state’s interest is adequately protected. The 20 percent equity requirement shall be met at the time the claimant or authorized agent files an initial postponement claim and tenders to the tax collector the initial certificate of eligibility described in Sections 20602, 20639.6, and 20640.6.

(2) Any residential dwelling in which the claimant’s interest is held pursuant to a contract of sale or under a life estate, unless the claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant’s interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

~~(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this chapter is made.~~

~~(B) Any taxes or assessments described in subparagraph (A) that are delinquent on July 1, 1977, will not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall~~

1 also constitute an application for the postponement of all those
2 delinquent taxes and assessments, together with any penalties,
3 interest, fees, or other charges resulting from that delinquency
4 and those amounts shall, unless otherwise paid by the claimant,
5 be paid out of the amount appropriated by Section 16100 of the
6 Government Code and shall be added to and become part of the
7 obligation secured by the lien provided by Section 16182 of the
8 Government Code; provided, however, that upon payment of
9 delinquent taxes and assessments for fiscal year 1976-77 out of
10 the amount appropriated by Section 16100, any delinquent
11 penalties, interest, fees or other charges resulting from the
12 delinquency of those taxes and assessments for fiscal year
13 1976-77 shall be canceled.

14 (C) For 1978-79 and thereafter, any taxes or assessments
15 described in subparagraph (A) that became delinquent after the
16 claimant was 62 and before the claimant first has established a
17 lien pursuant to Section 16182 of the Government Code will not
18 disqualify an otherwise eligible dwelling for postponement under
19 this chapter. An application to postpone taxes for 1978-79 or
20 thereafter shall also constitute an application for the
21 postponement of all delinquent taxes and assessments, together
22 with any penalties, interest, fees, or other charges resulting from
23 the delinquency and those amounts shall, unless otherwise paid
24 by the claimant, be paid out of the amount appropriated by
25 Section 16100 of the Government Code and shall be added to and
26 become part of the obligation secured by the lien provided by
27 Section 16182 of the Government Code.

28 (6) All taxes or assessments described in subparagraph (A) of
29 paragraph (5) that are delinquent on the date this bill takes effect
30 will not disqualify an otherwise eligible blind or disabled
31 applicant's dwelling from postponement under this chapter. A
32 blind or disabled citizen's application for postponement of
33 property taxes will not constitute an application for the
34 postponement of any delinquent taxes and assessments, or any
35 penalties, interest, fees or other charges resulting from
36 delinquency. Delinquent taxes of blind or disabled applicants are
37 not subject to postponement under this chapter.

38 (f) Notwithstanding subdivision (c) of Section 20584,
39 houseboats and floating homes, as defined by Section 20583.1,
40 on which the property taxes are delinquent at the time the

1 *application for postponement under this chapter is made, shall*
2 *not be eligible for postponement.*

3 *SEC. 10. Section 24348.5 of the Revenue and Taxation Code*
4 *is repealed.*

5 ~~24348.5. (a) Notwithstanding the provisions of Section~~
6 ~~24952, in the case of a state or federal savings and loan~~
7 ~~association, no gain or loss shall be recognized, and no debt shall~~
8 ~~be considered as becoming worthless or partially worthless, as a~~
9 ~~result of such organization having bid in at foreclosure, or having~~
10 ~~otherwise reduced to ownership or possession by agreement or~~
11 ~~process of law, any property which was security for the payment~~
12 ~~of any indebtedness.~~

13 ~~(b) For purposes of Section 24348, any property acquired in a~~
14 ~~transaction with respect to which gain or loss to an organization~~
15 ~~was not recognized by reason of subdivision (a) shall be~~
16 ~~considered as property having the same characteristics as the~~
17 ~~indebtedness for which such property was security. Any amount~~
18 ~~realized by such organization with respect to such property shall~~
19 ~~be treated for purposes of this chapter as a payment on account of~~
20 ~~such indebtedness, and any loss with respect thereto shall be~~
21 ~~treated for purposes of this chapter as a bad debt to which the~~
22 ~~provisions of Section 24348 (relating to allowance of a deduction~~
23 ~~for bad debts) apply.~~

24 ~~(c) The basis of any property to which subdivision (a) applies~~
25 ~~shall be the basis of the indebtedness for which such property~~
26 ~~was security (determined as of the date of the acquisition of such~~
27 ~~property) properly increased for costs of acquisition.~~

28 ~~(d) The Franchise Tax Board shall prescribe such regulations~~
29 ~~as it may deem necessary to carry out the purposes of this~~
30 ~~section.~~

31 *SEC. 11. If the Commission on State Mandates determines*
32 *that this act contains costs mandated by the state, reimbursement*
33 *to local agencies and school districts for those costs shall be*
34 *made pursuant to Part 7 (commencing with Section 17500) of*
35 *Division 4 of Title 2 of the Government Code.*

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 18, 2005. (JR11)**

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